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| 10/564,811 | 01/17/2006 | Lawrence Kesteloot | 217.1023.02 | 3403 |
| 78037 | 7590 | 01/29/2011 | | |
| KALEIDESCAPE, INC. 440 POTRERO AVE. SUNNYVALE, CA 94085-4117 | | | | |
| EXAMINER | | | | |
| STEVENS, ROBERT | | | | |
| ART UNIT | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@KALEIDESCAPE.COM

Office Action Summary

Application No.

10/564,811

Applicant(s)

KESTELOOT ET AL.

Examiner

ROBERT STEVENS

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,62 and 148-164 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1,2,4-7,10-19,21-36,57-63,73-82,84-90,112-124,127-133 and 135-164.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 10-19,21-36,57-61,63,73-82,84-90,112-124,127-133 and 135-147.

DETAILED ACTION

1. The Office withdraws the previous claim objection and previous rejections of the claims under 35 USC §103(a), in light of the amendment. However, the Office sets forth new rejections of the claims under 35 USC §103(a), in light of the amendment.

Response to Arguments

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

It is further noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In *re Heck*, 699 F.2d 1331, 1332-1333, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

The Office also notes MPEP § 2144.01, that quotes *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) as stating "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." Further MPEP 2123, states that "a reference may be relied upon for all that it would have reasonably suggested to one having

ordinary skill the art, including nonpreferred embodiments. Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

For at least these reasons, the Office asserts the rejections of the claims as set forth below.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/9/2010 has been entered.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claims 1-2, 4-7, 148-155 and 158-164 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Breen (US Patent Application Publication No. 2004/0117735, hereafter referred to as “Breen”) in view of Hodgkinson (US Patent Application Publication No. 2002/0126142, hereafter referred to as “Hodgkinson”).

Regarding independent claim 1: Breen teaches **A method, comprising: displaying a media stream in an active area of a display screen;** (See Breen Fig. 1 #14 in the context of the Abstract teaching a user device for displaying video content.) **receiving metadata associated with said media stream from a remote database;** (See Breen Fig. 1 #26, 30 and 34 in the context of the Abstract teaching stored metadata associated with video content.)

However, Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **and in response to said metadata, adjusting placement of said active area within said display screen.** (See Hodgkinson [0031] – [0032] in the context of [0003] and [0007] teaching the adjustment of size / positioning of the video display.)

It would have been obvious to one of ordinary skill in the art at the time of Applicant’s subject matter to apply the teachings of Hodgkinson for the benefit of Breen, because to do so allowed a workflow management system to flexibly accommodate ad hoc deviations to a business process, as taught by Hodgkinson in the Abstract. These references were all applicable to the same field of endeavor, i.e., video display management.

Regarding claim 2: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said adjusting further comprises adjusting**

masking elements so that a viewable area of said display screen takes on an aspect ratio associated with said media stream. (See Hodgkinson [0004] discussing the conventional use of black bars and cutting off parts of video that do not fit on the display.)

Regarding claim 4: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said metadata comprises: a specified aspect ratio associated with said media stream; and an adjustment from a known aspect ratio to said specified aspect ratio.** (See Hodgkinson [0031] discussing an adjustment to accommodate the proper aspect ratio.)

Regarding claim 5: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said adjusting further comprises automatically controlling one or more physical masks.** (See Hodgkinson [0004] discussing that it was conventionally known to use “black bars” and cutting off parts of video.)

Regarding independent claim 6: Breen teaches **A method, comprising: presenting a media stream on a display screen having masking elements;** (See Breen Fig. 1 #14 in the context of the Abstract teaching a user device for displaying video content.) **receiving metadata associated with said media stream, said metadata indicating desired digital content within said media stream;** (See Breen Fig. 1 #26, 30 and 34 in the context of the Abstract teaching stored metadata associated with video content.)

However, Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **and adjusting a size and/or position of an active area of said display screen in response to said metadata such that the desired digital content is displayed in said active area.** (See Hodgkinson [0031] – [0032] in the context of [0003] and [0007] teaching the adjustment of size / positioning of the video display.)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's subject matter to apply the teachings of Hodgkinson for the benefit of Breen, because to do so allowed a workflow management system to flexibly accommodate ad hoc deviations to a business process, as taught by Hodgkinson in the Abstract. These references were all applicable to the same field of endeavor, i.e., video display management.

Regarding claim 7: Breen teaches **wherein said adjusting comprises automatically moving said masking elements so that a viewable area of said display screen takes on an aspect ratio associated with said media stream.** (See Breen [0004] discussing the conventional use of black bars and cutting off parts of video to accommodate different aspect ratios.)

Regarding claim 148: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said physical masks are capable of obscuring and revealing some portions of said display screen.** (See Hodgkinson [0004] discussing the conventional use of black bars and cutting off parts of video that do not fit on the display.)

Regarding claim 149: Breen teaches **sending feedback information from a viewer of said media stream to said remote database; and conditionally incorporating said feedback information into said database, whereby viewers subsequently receiving said metadata also receive said feedback information.** (See Breen Fig. 3 #62 teaching the sending of a response to the client.)

Regarding claim 150: Breen teaches **conditionally adjusting an aspect ratio of said display screen in response to input from an end viewer of said media stream; and sending adjusted aspect ratio data from said end viewer to said remote database.** (See Hodgkinson [0004] discussing the conventional use of black bars and cutting off parts of video that do not fit on the display.)

Regarding claim 151: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **conditionally adjusting an aspect ratio of said display screen in response to input from an end viewer of said media stream; and sending adjusted aspect ratio data from said end viewer to said remote database.** (See Hodgkinson [0031] – [0032] in the context of [0003] and [0007] teaching the adjustment of size / positioning of the video display.)

Regarding claim 152: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said adjusting placement further comprises: recognizing a set of elements to be presented within said media stream, said set of elements**

having a different aspect ratio from the digital content; and adjusting a target location for that set of elements in response to an aspect ratio of said media stream. (See Hodgkinson [0004] discussing the conventional use of black bars and cutting off parts of video that do not fit on the display, and [0031] – [0032] in the context of [0003] and [0007] teaching the adjustment of size / positioning of the video display.)

Regarding claim 153: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said set of elements comprises at least one of: a caption, a closed-caption, a subtitle, a translation and a ticker feed.** (See Hodgkinson [0018] discussing the use of text that can flow around the video display window.)

Regarding claim 154: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **conditionally adjusting the aspect ratio of the displayed content in response to an on-screen display, said on-screen display being available to an end viewer of said media stream, and indicating placement for physical masks and sidebars.** (See Hodgkinson [0004] teaching the use of black bars and cutting off portions of video.)

Regarding claim 155: Breen teaches **identifying said media stream to be displayed; sending a request to said remote database for said metadata; parsing said metadata to yield one or more informational components; and interpreting at least one result of said parsing.**

(See Breen Fig. 3 in the context of Fig. 1, teaching the use of associated content and metadata profiles, and sending a response to the user display device.)

Regarding claim 158: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said adjusting further comprises: presenting a desired picture and excluding a remainder of a video frame, in response to said metadata, said metadata indicating a portion of said video frame occupied by said desired picture.** (See Hodgkinson [0004] discussing the conventional use of black bars and cutting off parts of video that do not fit on the display.)

Regarding claim 159: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said metadata comprises at least one of: a preselected aspect ratio; and an adjustment from a known aspect ratio.** (See Hodgkinson [0004] discussing the conventional use of aspect ratios.)

Regarding claim 160: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said media stream comprises a video stream having first and second elements; the metadata includes information associating each of the first and the second elements of the video stream with some independent combination of aspect ratio, horizontal size, vertical size, resolution, anamorphic compression, and letterboxing; and further comprising: selecting a target location on said display screen for each of the first and**

second elements in response to said metadata. (See Hodgkinson [0004] discussing the conventional use of aspect ratios.)

Regarding claim 161: Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **wherein said displaying comprises projecting a modified image of a desired picture of a video frame of said media stream, such that said active area contains the desired picture while excluding at least some portion of said video frame.** (See Hodgkinson [0004] teaching the use of black bars and cutting off portions of video.)

Regarding claim 162: Breen teaches **wherein said active area of said display screen comprises at least one of: a reflective portion of said display screen visible to the human viewer; and an illuminated portion of said display screen visible to a human viewer.** (See Breen Fig. 1 #14 teaching the use of a user device with a region for display of content.)

Regarding claim 163: Breen teaches **wherein said adjusting is responsive to triggering of one or more watch points in said media stream.** (See Breen [0021] discussing that the metadata profiles are related to a video timeline.)

Regarding independent claim 164: Breen teaches **A method of displaying a motion picture including a sequence of frames of fields, each frame or field containing a portion of interest that is smaller than the frame or field, the method comprising: receiving a selection**

from a user of a motion picture; (See Breen Fig. 3 #50 in the context of the Abstract teaching a request for video content.) **obtaining from a database metadata associated with the selected motion picture;** (See Breen Fig. 1 #26, 30 and 34 in the context of the Abstract teaching stored metadata associated with video content.) **displaying the motion picture;** (See Breen Fig. 1 #14 in the context of the Abstract teaching a user device for displaying video content.)

However, Breen does not explicitly teach the remaining limitations as claimed. Hodgkinson, though, discloses **and adjusting masking means in response to the metadata so that substantially only the portion of interest is visible.** (See Hodgkinson [0031] – [0032] in the context of [0003] and [0007] teaching the adjustment of size / positioning of the video display.)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's subject matter to apply the teachings of Hodgkinson for the benefit of Breen, because to do so allowed a workflow management system to flexibly accommodate ad hoc deviations to a business process, as taught by Hodgkinson in the Abstract. These references were all applicable to the same field of endeavor, i.e., video display management.

6. **Claims 62 and 156-157 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Breen (US Patent Application Publication No. 2004/0117735, hereafter referred to as "Breen") in view of Hodgkinson (US Patent Application Publication No. 2002/0126142, hereafter referred to as "Hodgkinson") and Zimmerman (US Patent Application Publication No. 2003/0007001, hereafter referred to as "Zimmerman").

Regarding claim 62: Breen in view of Hodgkinson does not explicitly teach the remaining limitations as claimed. Zimmerman, though, discloses **wherein said adjusting comprises displaying a color that minimizes burn-in in an inactive area of said display.** (See Zimmerman [0024] Table 1 teaches the use of color settings.)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's subject matter to apply the teachings of Zimmerman for the benefit of Breen in view of Hodgkinson, because to do so enabled a search engine to identify pertinent documents in any supported language, as taught by Zimmerman in the Abstract. These references were all applicable to the same field of endeavor, i.e., video display management.

Regarding claim 156: Breen in view of Hodgkinson does not explicitly teach the remaining limitations as claimed. Zimmerman, though, discloses **wherein said metadata includes some combination of: an aspect ratio; audio encoding specification; and other device control information.** (See Zimmerman [0024] Table 1 showing a variety of exemplary device control data / parameters.)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's subject matter to apply the teachings of Zimmerman for the benefit of Breen in view of Hodgkinson, because to do so enabled a search engine to identify pertinent documents in any supported language, as taught by Zimmerman in the Abstract. These references were all applicable to the same field of endeavor, i.e., video display management.

Regarding claim 157: Breen in view of Hodgkinson does not explicitly teach the remaining limitations as claimed. Zimmerman, though, discloses **controlling one or more: lights; cooling systems; or audio systems in response to said metadata.** (See Zimmerman [0024] and Table 1 showing the use of sound settings information / parameters.)

It would have been obvious to one of ordinary skill in the art at the time of Applicant's subject matter to apply the teachings of Zimmerman for the benefit of Breen in view of Hodgkinson, because to do so enabled a search engine to identify pertinent documents in any supported language, as taught by Zimmerman in the Abstract. These references were all applicable to the same field of endeavor, i.e., video display management.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Application Publications

| | |
|-------------|--------------|
| Zacks et al | 2004/0123131 |
| Rafey et al | 2003/0110501 |

US Patents

| | |
|---------------------|-----------|
| Chasen et al | 7,549,127 |
| Gould et al | 6,501,476 |
| Herz | 6,407,779 |
| Cash et al | 5,481,297 |
| Horvath et al | 5,276,437 |
| King et al | 5,621,428 |
| Nally et al | 5,977,960 |
| Bourgeois et al | 5,060,170 |
| Van Der Voort et al | 5,223,936 |
| Richards | 5,208,669 |

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Stevens whose telephone number is (571) 272-4102. The examiner can normally be reached on M-F 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Stevens/
Primary Examiner, Art Unit 2162

January 16, 2011